

House Daily Reader

Wednesday, January 26, 2005

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State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

681L0186

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1087** - 01/24/2005

Introduced by: Representatives Buckingham, Boomgarden, Bradford, Frost, Garnos, Halverson, Hargens, Heineman, Krebs, Kroger, Rave, Tornow, Van Etten, Weems, and Willadsen and Senators Knudson, Bogue, and Kelly

1 FOR AN ACT ENTITLED, An Act to require certain voter registration forms to be filed within
2 an established time frame and to establish certain penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 12-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any private entity or individual registering a person to vote shall file the completed
7 registration form with the county auditor within ten days or by the voter registration deadline,
8 whichever occurs first. A violation of this section is a Class 2 misdemeanor.



State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

517L0418

HOUSE JUDICIARY COMMITTEE ENGROSSED NO.

HB 1090 - 01/24/2005

Introduced by: Representatives Cutler, Elliott, Sebert, and Vehle and Senators McCracken, Broderick, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to allow debt cancellation contract and debt suspension
2 contract fees to be included in consumer installment sales contracts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-3A-5 be amended to read as follows:

5 54-3A-5. In addition to the finance charge, a creditor may contract for, and receive the
6 following additional charges in connection with an installment sales contract if such charges are
7 itemized and disclosed to the buyer:

8 (1) Official fees and taxes; ~~and~~

9 (2) Charges for credit life, accident, health, loss of income, property, or liability
10 insurance; ~~provided, that.~~ However any insurance ~~shall be~~ is optional, and the
11 consumer ~~must~~ shall be informed, in writing, that any insurance is optional; and

12 (3) Charges for debt cancellation contracts and debt suspension contracts, as defined in
13 § 51A-1-2, if the debt cancellation contract or debt suspension contract is a contract
14 of a depository institution authorized to provide such coverage, and the contract is
15 sold directly by the authorized depository institution or by a retailer acting as an agent



1 for the authorized depository institution. However, any debt cancellation contract or
2 debt suspension contract is optional, and the consumer shall be informed, in writing,
3 that any such contract is optional.

4 Any such charges must be disclosed and explained to the consumer prior to signing any
5 agreement to repay a consumer credit obligation. Any such charges must be separately agreed
6 to in writing and separately signed by the consumer.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0295

SENATE COMMERCE COMMITTEE ENGROSSED NO. **SB 20** - 01/14/2005

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to prohibit a mobile telecommunications service provider
2 from including a subscriber's telephone number in a wireless directory assistance service
3 database without the subscriber's authorization.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-31-1 be amended by adding thereto NEW SUBDIVISIONS to read as
6 follows:

7 "Mobile telecommunications service," any commercially available interconnected mobile
8 phone service that provides access to the public switched telephone network through mobile
9 communications devices employing radio wave technology to transmit calls;

10 "Wireless telephone number information," the telephone number, electronic address, and
11 any other identifying information by which a calling party may reach a subscriber of mobile
12 telecommunications service, and that is assigned by a mobile telecommunications service
13 provider to a subscriber, and includes the subscriber's name and address.

14 Section 2. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
15 follows:



1 No provider of mobile telecommunications service, or any direct or indirect affiliate or agent
2 of a provider, may include the wireless telephone number information of a South Dakota
3 subscriber in a wireless directory assistance service database or publish, sell, or otherwise
4 disseminate the contents of a wireless directory assistance service database unless:

5 (1) The mobile telecommunications service provider provides a conspicuous separate
6 notice to the subscriber informing the subscriber of the right not to be listed in a
7 wireless directory assistance service; and

8 (2) The mobile telecommunications services provider obtains express prior authorization
9 for listing from the subscriber, separate from any authorization obtained to provide
10 such subscriber with mobile telecommunications service, or any calling plan or
11 service associated with the mobile telecommunications service, and the authorization
12 has not been subsequently withdrawn.

13 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 No person may charge a subscriber for making the choice to not be listed in a wireless
16 directory assistance database or for removing the subscriber's mobile telecommunications
17 service telephone number from a wireless directory assistance database at the subscriber's
18 request.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0368

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 54** - 01/21/2005

Introduced by: The Committee on Judiciary at the request of the Department of Social
Services

1 FOR AN ACT ENTITLED, An Act to clarify the procedure to be followed for expedited abused
2 or neglected child proceedings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 26-8A-21.2 be amended to read as follows:

5 26-8A-21.2. If the court has determined that reasonable efforts to return an adjudicated
6 abused or neglected child to the home of the parent, guardian, or custodian are not appropriate,
7 a permanency hearing shall be held within thirty days after the determination. At the
8 permanency hearing, the court shall determine whether and, ~~if applicable,~~ when:

9 (1) The child should be placed for adoption, and the state ~~should file a petition for~~ shall
10 notify the parties of its intent to seek the termination of parental rights if such notice
11 has not already been provided;

12 (2) The child should be referred for legal guardianship;

13 (3) The child should be placed permanently with a fit and willing relative; or

14 (4) A compelling reason is documented with the court that none of the permanent plans
15 listed in this section would be in the best interest of the child, and the child should



1 be placed in another planned permanent living arrangement.

2 The court may immediately proceed with a final dispositional hearing if proper notice of the

3 hearing has been given.

State of South Dakota

EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

400L0381

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **SB 59** - 01/24/2005

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to permit the involuntary feeding or hydration of a prisoner.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. The supervisor of a jail, as defined in § 24-11-1, or a prison warden may attempt
4 to prevent a prisoner from causing severe harm or death to himself or herself by refusing
5 sufficient nutrition or hydration. A prisoner may be involuntarily fed or hydrated if it is
6 determined, pursuant to the provisions of this Act, that the prisoner is likely to cause severe
7 harm to himself or herself by refusing sufficient nutrition or hydration. No supervisor of a jail
8 or prison warden may prevent medically imposed fasts for the purpose of conducting medical
9 tests or procedures or religious fasts for a reasonable length of time.

10 Section 2. Prior to involuntary feeding or hydration, the prisoner shall receive a hearing
11 before a panel consisting of two medical representatives and a representative of the jail or
12 prison. The medical representatives shall be a physician, physician assistant, or nurse
13 practitioner. No panel member may have participated in the prisoner's current diagnosis,
14 evaluation, or treatment. The prisoner has the right to notice of the hearing at least forty-eight
15 hours in advance, the right to attend the hearing, the right to present evidence and cross-examine



witnesses, and the right to representation by a disinterested lay advisor.

Section 3. The hearing panel:

- (1) Shall engage in a confidential review of the prisoner's medical records;
- (2) Shall receive a description of the proposed course of treatment for the involuntary feeding or hydration of the prisoner and testimony of the circumstances of the situation from the attending physician; and
- (3) May ask for testimony or written statement concerning the circumstances of the prisoner's lack of nutrition or hydration.

Section 4. The panel may order involuntary feeding or hydration by a majority vote. The panel shall provide its decision in writing to the attending physician, the supervisor of the jail or prison warden, and the prisoner. The prisoner may appeal an adverse decision of the panel to the supervisor of the jail in which the prisoner is confined or the secretary of corrections if the prisoner is confined in a Department of Corrections facility. The prisoner may appeal the decision of the jail supervisor or secretary of corrections to circuit court pursuant to chapter 1-26.

Section 5. In an emergency, involuntary feeding or hydration of a prisoner may be administered without panel review for up to three days if two medical representatives who are a physician, physician assistant, or nurse practitioner order the treatment. Involuntary feeding for a greater length of time requires the approval of the panel.

Section 6. If involuntary feeding or hydration of a prisoner exceeds ten days, a physician who is not the attending physician shall review the prisoner's current case and at subsequent intervals not to exceed three days, make a written determination whether the involuntary feeding or hydration shall be continued. The physician's written determination shall be provided to the attending physician, the supervisor of the jail or prison warden, and the prisoner.

1 Section 7. A jail or prison shall maintain records of any involuntary feeding or hydration of
2 prisoners. The records shall include any available medical history of a prisoner's prior refusal
3 of adequate nutrition or hydration, current and prior illnesses, and may include such other
4 information as deemed necessary by the jail or prison to facilitate management of prisoners.

5 Section 8. No person who serves on the hearing panel, who is the attending physician, who
6 is the supervisor of the jail or prison warden, or who orders or participates in the involuntarily
7 feeding or hydrating of a prisoner may be held civilly or criminally liable for the involuntarily
8 feeding or hydrating of a prisoner pursuant to this Act if the person performs these duties in
9 good faith and in a reasonable manner according to generally accepted medical or other
10 professional practices.